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Washington, D.C.  
Wednesday, 25 October 1978

PROTECTING SECRETS IN A FREE SOCIETY

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In the nineteen months that I have been Director of Central Intelligence, I have come into the habit of screening the press clips first thing every morning. I almost hold my breath until I know if today's disclosures include some of our sensitive sources of intelligence. Sometimes it comes out through a leak, sometimes from the forced testimony of one of our officers in court and sometimes from the subpoena of a document or notes. As a result, I have almost come to think of you in the media and we in intelligence as being adversaries. In recent months, however, I find that we are really in the same plight together. As often as not, the press clips disclose that it is you, the media who are being taken into court and forced to defend the secrecy of your sources or it is you who are receiving the subpoenas. At least if I understand it, the essence of the court cases involving Mr. Farber, the Stanford Daily and others is whether preserving the confidentiality of a newsman's sources is essential to meeting his obligations and to the continued success of your profession.

Let me assure you that if this is anything of a problem to you, the danger of disclosing sources is the number one threat to our American intelligence community today. The focus of the media with respect to intelligence for almost four years now has been on actual and alleged abuses of the past. I sincerely believe the threat to our country of excesses in intelligence operations is far less today than any time in our history. The real danger is that we will be unable to conduct necessary operations because of the risk that they would be disclosed. Let me give you some examples of why I say this.

First, allied intelligence services are losing confidence that we can keep a secret. We suspect that some are holding back information. One recently withdrew a proposal for a joint covert action which would have been beneficial to both nations. It did so when reminded that I must notify eight committees of the Congress of every covert action. They could not imagine that the plan would not leak.

Beyond this, agents overseas who risk their lives to support our country even though they are not even citizens of it ask, "When will my name appear in your press?" This is not a transient problem; it is a trend that could undermine our human intelligence capabilities for a decade or

more. In this kind of a climate there simply may be fewer volunteers to be sources for us in the future.

Finally, with respect to the dangers of a lack of secrecy too many leaks can lead to intelligence by timidity. A timid reporter will never land the big story. A timid intelligence officer will not take the risks which are a part of his work if he must add the high probability that his sources will be exposed in our media. All three of these examples are part of the same fundamental question of question of protection of sources, and are not at all different from the problem which you face.

I do not know what your profession is doing about this problem we have in common. I would like to describe our response thus far. First, we recognize that a lot of the problem is right on our own doorstep. Sometimes it is our own people who provide the leaks. Sometimes it is former employees. Sometimes we are vulnerable to deliberate espionage. Accordingly, we can and are tightening our internal security procedures. You can always tighten up, but it is a matter of compromise between having such tight controls that we cannot do our job with reasonable efficiency and striving so much for efficiency that we do not properly control our secrets. The tables today are perhaps tilted a bit too much in the direction of

efficiency. I am working to turn them back and I hope that will make it more difficult for you to obtain our secrets.

We are also doing things externally. We have a policy of greater openness. My presence here is evidence of my personal commitment to keep the public better informed by being more open about intelligence activities where and when that is possible. How will openness help us preserve secrets? Well, simply by reducing the excessive corpus of secrets that now exists within our government. Today so much information is unnecessarily classified that we have lost respect for the classified label. By making as much as possible available to the public, we reduce the amount that is kept secret. In turn this makes it easier to engender respect for that which remains classified.

It takes more than openness, however, to preserve secrets. Basically there must be some renewed acknowledgment in the media and in the public that secrecy is legitimate. Clearly there is a very fine line which we must tread. Too much secrecy can impede justice or staunch the flow of information within our society. Too little secrecy can give away data that is of vital importance to our nation. It is a delicate balance between a government that serves

its people poorly because it does not keep them informed and one that serves them poorly because it does not maintain necessary secrets. No government, no business, no newspaper, no private individual can conduct his life or business without some element of secrecy. Newsmen feel that the release of their notes even to prosecute a charge of murder would endanger an obligation to individuals who help them and would set a precedent adversely affecting the future of their profession. So, too, do we in the field of intelligence react almost daily. But, there is one difference between our attitudes and obligations. Your case rests upon an interpretation of the Constitution which today is being seriously challenged. My obligation rests upon a law--the National Security Act of 1947 which requires that the Director of Central Intelligence in his person "shall be responsible for protecting our sources and methods of collecting intelligence from unauthorized disclosure." I must comply to the best of my ability and conscience.

Still another difference in your perspective and mine is that protecting sources is only one of my problems of secrecy. It has become very suspect these days to even refer to withholding information in the name of national security. Abuse of this principle

in the past, however, does not make it invalid today. Quite simply, there is information which it is not in the national interest to disclose. We cannot negotiate a SALT treaty if we cannot maintain the privacy of our negotiating position. We cannot afford to develop expensive weapons systems or devices for collecting intelligence and then tell those against whom we might have to employ them what their precise characteristics are.

Because, however, we in the world of intelligence are in the risk-taking business, and because there are dangers to our national fabric from the improper use of the intelligence process, clearly there must be special checks on us. I believe that there are such checks today and that the public can be more confident today than ever before that the abuses of the past will not reoccur. Out of the crucible of the past four years of public criticism, a whole new regimen of controls and checks has been constructed. These begin with the policy of greater openness that I have cited to you.

Beyond this, we have established a thorough system of control mechanisms to govern our day-by-day activities. These start with two basic guidelines which are the framework within which all intelligence professionals now work. The first of these is that espionage must be considered an extraordinary remedy. Clandestine means

of gathering information should never be utilized when the same information might be available openly. The second guideline is that actions which we take in secret must be defensible, in principle, in public. Clearly, we cannot lay out publicly all the details of each instance of espionage which we undertake, but we can in public defend the general classes of actions we utilize.

Beyond these guidelines, we have also established a series of prohibitions. Some activities, such as assassination, are so repugnant to our national standards as to warrant prohibition without exception. In some cases, however, total prohibition is a bit too rigid a position. Instead, we have injunctions which generally prohibit certain activities unless there is a specific authorization for them. This is analogous to law enforcement procedures in common use in our country. We all recognize that there is an injunction against a law enforcement agency invading the privacy of our homes, except with the specific authorization of a search warrant. We too, in intelligence are establishing similar procedures, sometimes with warrants, sometimes with other provisions for approval. The utilization of members of the US media for intelligence purposes is one example. This is proscribed unless I personally make the exception.



The most significant change in American intelligence in recent years, however, and one that is truly revolutionary is the introduction of effective external oversight from both the executive and legislative branches. This oversight is intended to check on how the guidelines, prohibitions and injunctions are being carried out, and to relate the nature of our intelligence activities to the attitudes and mores of the country as a whole.

An Intelligence Oversight Board has been functioning for almost three years. Composed of three members from outside the government, presently former Senator Gore, former Governor Scranton, and Mr. Thomas Farmer, it reviews Intelligence Community activities and serves as a place where anyone can report activities they suspect may be illegal or improper. The Board reports its findings directly to the President.

Oversight committees have been in place in Congress for two years in the case of the Senate, and a little over one year in the House. In both instances the relationship between the Select Committees on Intelligence and the Intelligence Community has been one of cooperation and help, but at the same time definitely one of oversight and supervision. There is no question that we are answerable to these committees.

Many in the Intelligence Community have come to recognize the positive values for us in the oversight process. Ultimate accountability is essential to responsible action. When the stakes are high, when patriotism<sup>is</sup> a driving force and when risks must be taken, it is good to have the element of accountability hanging over us. Oversight is forcing us to be judicious, to think out both the risks and benefits of what we propose to do.

The Congressional Oversight Committees are now in the process of legislating guidelines, prohibitions, and injunctions and further refining the oversight procedures themselves in what will be known as Charters for the Intelligence Community. I strongly support this undertaking. In the first place it will provide the legal foundation for our activities. In the second place, it will provide guidance so that the US intelligence officer on the street in a foreign country and those of us in the headquarters will have a better idea of what is expected, what may not be done and what, if done, must be justified convincingly to our overseers.

On top of all these governmental checks and controls, we also, of course, view you, the media, as another important

oversight mechanism in reassuring the public and in preventing abuse. My plea to you, however, is to recognize the similarity of our plights. We in intelligence are professionals dedicated to secrecy who are constantly having to defend ourselves against being pressed into excessive openness. You are professionals dedicated to openness who are now facing great pressures to dispense with your secrets. I hope that you will recognize that when we balk, for instance, at disclosing all the secrets necessary to prosecute a case in court, we do not do so in an arbitrary manner. We study these cases very carefully. Moreover, we must be prepared to justify our positions not only to the Attorney General but to our oversight committees. Yet, it is right for you to question these judgments, but please bear in mind that your oversight is frequently hampered by only having part of the picture. You are at a severe disadvantage compared with our Intelligence Oversight Board and our Congressional committees since we cannot share our secrets with you. This, indeed, places you in a difficult position. With data that is incomplete, you must be concerned about misleading the public or making disclosures injurious to the national interest. You must constantly balance those dangers with your obligation to keep Americans well informed and to uncover malfeasance in government where it exists.

Another area of delicate responsibility for you is in judging the validity of so-called "whistleblowers" who come to you with tales of impropriety or inefficiency. Many of these appear to have only the most altruistic motives, and probably bring reassurances that what they are disclosing is not justifiably secret. Let me suggest that what is legitimately secret or sensitive is not always obvious on its face, especially to former officials who were third or fourth echelon at best and who were never in a position to assess all of the equities involved. The potential in these situations for abuse of you and your role is immense. What better way to promote a forthcoming book than to titillate the public through encouraging you to issue samples of unauthorized revelations. How many so-called "whistleblowers" go through the oversight mechanisms that I have described where abuses and undue secrecy can be questioned without compromising legitimate secrets? Frankly, I have yet to see a whistleblower use these relief valves fully before going to the court of last resort--you, the public press. I am suspicious as to their motivation and suggest that you might well be also. Further, when every elected or appointed public official is suspect and every

renegade whistleblower is automatically accepted as a hero; when there is greater emphasis on criticizing and tearing down our society than on building it up, I suggest that we are heading for real trouble.

I do not envy you the difficult job of conducting oversight and assessing the validity of your sources without access to all of the information you need; or of making the choices which you face in steering a course between the Scylla of undue emphasis on criticism and the Charybdis of taking too much on face value; or of deciding whether the national interest is better served by printing a secret or by withholding it.

I do not, however, accept the thesis sometimes proffered that your responsibilities leave you no choice but to print whatever you receive; or that the possibility that someone else will print it anyway makes the question moot. Nor do I agree that if you possess some information it can be assumed that the KGB or other foreign intelligence services have it too. But, in the end, those of us in government who are involved in protecting secrets are not the ones to pass judgment on the actual choices you make. It is the public who should and will.

The recent court decisions on Farber and such may indicate that neither the public nor the courts agree with some of the premises under which you have traditionally labored. Your unfettered right to print and disclose is clearly being questioned; just as has our indiscriminate right to classify. Accordingly, we both, it seems to me are in the midst of a reassessment of our roles and the way we carry them out.

The Intelligence Community has been about this task for several years now. I suggest that there is something to be learned from our experience. I would not suggest how you ought to resolve these issues as they affect your ability to play your role. From my point of view, ~~through~~, as this country's chief intelligence officer, what I expect from the nation's media is a greater understanding of the commonality of our problem of protecting sources; less suspicion and reliance on inferences and more quest for facts, especially about alleged improprieties; fewer headlines about intelligence abuses of 25 years ago played as though they were new revelations and more concern for today; and more discretion as to what is relevant to our society's needs and what is pure sensation. Yet I again acknowledge that it is by no means easy for you to strike these balances precisely when you have only partial information. In the final analysis we both serve the same master and will be

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judged by the same jury--the public of the United States. Within the framework of our uneasy relationship, I believe there is room for mutual respect and for us to work closer together rather than farther apart. A greater degree of communication and perhaps even trust will benefit us both and will permit us jointly to serve that American people more effectively.

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